ARGUMENTS/REMARKS

Applicants would like to thank the examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action and the Advisory Action of April 20, 2005, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

An RCE is being filed with this amendment. Applicant requests an interview with the Examiner and the Examiner's supervisor prior to the Examination of this amendment.

Claims 2-23 remain in this application. Claim 1 has been canceled.

Claims 22, 3-6, 8, 10-13, 15, 17-20, and 23 were rejected under 35 U.S.C. §102(e) as being anticipated by Sugahara *et al.* (U.S. 6,567,554 or U.S. 2003/0154687). Claims 2, 9, and 16 were rejected as being unpatentable over Sugahara in view of Chujoh *et al.* (U.S. 5,416,521). For the following reasons, the rejections are respectfully traversed.

Claim 8 recites a "reference target code amount" that is determined from a "reference coding frame rate". Claim 8 further recites a "correction value" that is calculated from a difference between a "predetermined target value" and an "actual value" of a code amount stored in a buffer. Claim 8 also recites that a rate control unit calculates a "calculated target code amount" from the "correction value" and the "reference target code amount".

In the Advisory Action, the Examiner states that Sugahara teaches a "calculating unit 14 and controlling unit 21" which are used for "allocating code amount based on the buffer (unit 6) occupancy, and 'determining the buffer remaining amount' is part of the processing in order for calculating and controlling amount of code, to avoid buffer underflow or overflow". The Examiner also argues that the "correction code amount (as illustrated in fig. 9) would be based on the buffer occupancy (which is actually buffer remaining amount with

respect to the actual value of the buffer) and 'adding correction value,' reads on (i.e., figs. 8 and 9).

Applicant does not understand the Examiner's arguments, either because of grammatical errors or because the argument does not map the claim language to the reference. Accordingly, applicant's representative will attempt to provide the mapping based on Sugahara paragraphs [0127] to [0133] and the accompanying figures..

The cited section states that the buffer 6 provides a "generated amount of codes" through terminal 33 to the "target amount of codes/ generated amount of codes comparing unit" (see Fig. 5 and paragraph [0131]). The reference further states that the "temporary target amount of codes" has been set by the "temporary amount of codes setting unit" to produce an "error amount of codes" (see paragraph [0131]).

For argument's sake, lets say that the "generated amount of codes" of the reference is mapped to the "actual value" stored in the buffer of claim 8, the "temporary picture target amount of codes" of the reference is mapped to the "predetermined target value" of claim 8, and the "error amount of codes" of the reference is mapped to the "correction value" of claim 8. The Examiner has still failed to show what parameters of the reference teach the "reference target code amount", the "reference coding frame rate" and the "calculated target code amount".

In essence, the claim clearly recites a number of parameters that cannot be mapped to parameters of the reference, no matter how the mapping is done. The Examiner has failed to account for a number of the parameters found in claim 8. Thus, claim 8 is patentable over the reference. Similar arguments can be applied to claims 15 and 22, which recite similar parameters that cannot be mapped to the reference.

In addition, Chujoh does not overcome the shortcomings of Sugahara. Because the remaining claims depend, directly or indirectly, upon one of claims 8, 15, and 22, each is patentable over Sugahara and/or the combination of Sugahara with Chujoh for at least the same reasons as the parent claim.

Furthermore, arguments provided in the previous response to the Office action of December 16, 2004, also apply, and the claims are patentable over the references for those reasons as well.

Finally, the Examiner has not provided the proper motivation for combining the references. The burden is on the Examiner to make a prima facie case of obviousness (MPEP §2142). To support a prima facie case of obviousness, the Examiner must show that there is some *suggestion* or *motivation* to modify the reference (MPEP §2143.01). The mere fact that references *can* be combined or modified, alone, is not sufficient to establish prima facie obviousness (*Id.*). The prior art must also suggest the *desirability* of the combination (*Id.*). The fact that the claimed invention is within the *capabilities* of one of ordinary skill in the art is not sufficient, by itself, to establish prima facie obviousness (*Id.*).

The Examiner has cited no support for any such suggestion or motivation for the combination from within the references, and neither does the Examiner provide any references supporting any motivation to modify the reference(s) by making the combination.

Accordingly, the rejection for obviousness is not supported by the Office action and thus the rejection is improper, and should be withdrawn.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to

initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 34168.

Respectfully submitted,
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